

PT 02-52

Tax Type: Property Tax

Issue: Religious Ownership/Use

**STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
CHICAGO, ILLINOIS**

**CHRIST COMMUNITY
CHURCH OF OTTAWA
APPLICANT**

v.

**ILLINOIS DEPARTMENT
OF REVENUE**

**No. 01-PT-0028
(00-50-0085)
P.I.N: 22-14-132-000**

RECOMMENDATION FOR DISPOSITION

APPEARANCES: Ms. Janice L. Boback, of Hupp, Lanuti, Irion & Burton on behalf of the Christ Community Church of Ottawa (the “Applicant”); Mr. George W. Foster, Special Assistant Attorney General, on behalf of the Illinois Department of Revenue (the “Department”).

SYNOPSIS: This matter presents the limited issue of whether real estate identified by LaSalle County Parcel Index Number 22-14-132-000 (the “subject property”), was “used exclusively for religious purposes,” as required by Section 15-40 of the Property Tax Code (35 ILCS 200/1-1, *et seq.*) at any point during the 2000 assessment year. The underlying controversy arises as follows:

Applicant filed an Application for Property Tax Exemption with the LaSalle County Board of Review (the “Board”) on October 13, 2000. The Board reviewed this application and recommended to the Department that the requested exemption be granted.

On January 19, 2001, the Department issued a determination denying said exemption on grounds of lack of exempt use.

Applicant filed an appeal to this denial and later presented evidence at a formal evidentiary hearing. Following a careful review of the record made at that hearing, I recommend that the Department's initial determination in this matter be reversed.

FINDINGS OF FACT:

1. The Department's jurisdiction over this matter and its position therein are established by Dept Group Ex. Nos. 1, 2.
2. The Department's position in this matter is that the subject property is not in exempt use. Dept. Ex. No. 2.
3. The subject property is identified by LaSalle County Parcel Index Number 22-14-132-000 and improved with a two-story residential parsonage. Dept. Ex. No. 1.
4. Applicant, a Christian Church incorporated under the Religious Corporation Act, 110 **ILCS** 110/0.01, *et seq.*, obtained ownership of the subject property by means of a warranty deed dated January 29, 1999. Applicant Ex. No. 1.
5. On January 29, 1999, applicant and its pastor, John Nordstrom, Jr., entered into a written agreement which required that Pastor Nordstrom, Jr. live in the parsonage as a condition of his employment. Applicant Ex. No. 3; Tr. pp. 17-20 .
6. Pastor Nordstrom, Jr., lived in the residence throughout the 2000 assessment year. Tr. pp. 15-16.

CONCLUSIONS OF LAW:

Article IX, Section 6 of the Illinois Constitution of 1970 provides as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

Pursuant to Constitutional authority, the General Assembly enacted Section 15-40 of the Property Tax Code, 35 **ILCS** 200/1-1 *et seq.* (hereinafter the “Code”), wherein the following are exempted from real estate taxation:

All property used exclusively for religious purposes, or used exclusively for school and religious purposes, or for orphanages and not leased or otherwise used with a view to a profit, is exempt, including all such property owned by churches or religious institutions or denominations and use in conjunction therewith as housing facilities provided for ministers ... performing the duties of the vocation as ministers at such churches or religious institutions or for such religious denominations... [.]

35 **ILCS** 200/15-40.

Statutes conferring property tax exemptions are to be strictly construed so that all factual and legal inferences favor of taxation. People ex rel. Nordland v. Home for the Aged, 40 Ill.2d 91 (1968); Gas Research Institute v. Department of Revenue, 154 Ill. App.3d 430 (1st Dist. 1987). Consequently, any doubts or debatable questions as to whether property falls within a given statutory exemption provision must be resolved in favor of taxation. *Id.*

In this case, the relevant statute requires that the property in question be “used exclusively for religious purposes.” 35 **ILCS** 200/15-40. The word “exclusively” when used in Section 200/15-40 and other property tax exemption statutes means the “the primary purpose for which property is used and not any secondary or incidental purpose.”

Pontiac Lodge No. 294, A.F. and A.M. v. Department of Revenue, 243 Ill. App.3d 186 (4th Dist. 1993). As applied to the uses of property, a religious purpose means “a use of such property by a religious society or persons as a stated place for public worship, Sunday schools and religious instruction.” People ex rel. McCullough v. Deutsche Evangelisch Lutherisch Jehova Gemeinde Ungeanderter Augsburgischer Confession, 249 Ill. 132, 136-137 (1911).

The specific “religious purpose” at issue herein is that of a parsonage. The statutory requirements for the exemption of a parsonage are that the property must be: (a) owned by a duly qualified religious institution; and, (b) used as a housing facility for clergy employed by that religious institution; and, (c) occupied by clergy who must reside in the facility as a condition of employment. 35 ILCS 200/15-40; McKenzie v. Johnson, 98 Ill.2d 87 (1983). Only the last requirement is at issue herein, as the Department’s denial was based strictly on lack of exempt use. Dept. Ex. Ex. No. 2.

The testimony of applicant’s pastor, John Nordstrom Jr., together with the written agreement requiring Pastor Nordstrom, Jr. to reside in the parsonage as a condition of his employment (Tr. pp. 15-18; Applicant Ex. No. 3), prove that the subject property was in fact used for the very narrow set of residential purposes set forth in Section 15-40 throughout the 2000 assessment year. Consequently, it appears that the instant denial was predicated on an initial lack of information that applicant cured at hearing. This being the case, the Department’s determination in this matter should be reversed.

WHEREFORE, for all the aforementioned reasons, it is my recommendation that the of real estate identified by LaSalle County Parcel Index Number 22-14-132-000 be exempt from 2000 real estate taxes under 35 **ILCS** 200/15-40.

August 8, 2002
Date

Alan I. Marcus
Administrative Law Judge